

House Study Bill 644 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
REVENUE BILL)

A BILL FOR

1 An Act relating to taxation by updating the Code references
2 to the Internal Revenue Code, providing for the repeal of
3 the generation skipping transfer tax and Iowa estate tax,
4 and including effective date and retroactive applicability
5 provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

INTERNAL REVENUE CODE REFERENCES

Section 1. Section 15.335, subsection 7, paragraph b, Code 2014, is amended to read as follows:

b. For purposes of this section, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, 2013, ~~and as amended by the American Taxpayer Relief Act of 2012,~~ Pub. L. No. ~~112-240~~ 2014.

Sec. 2. Section 422.3, subsection 5, Code 2014, is amended to read as follows:

5. "*Internal Revenue Code*" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2013, ~~and as amended by the American Taxpayer Relief Act of 2012,~~ Pub. L. No. ~~112-240~~ 2014.

Sec. 3. Section 422.10, subsection 3, paragraph b, Code 2014, is amended to read as follows:

b. For purposes of this section, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, 2013, ~~and as amended by the American Taxpayer Relief Act of 2012,~~ Pub. L. No. ~~112-240~~ 2014.

Sec. 4. Section 422.32, subsection 1, paragraph g, Code 2014, is amended to read as follows:

g. "*Internal Revenue Code*" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2013, ~~and as amended by the American Taxpayer Relief Act of 2012,~~ Pub. L. No. ~~112-240~~ 2014.

Sec. 5. Section 422.33, subsection 5, paragraph e, subparagraph (2), Code 2014, is amended to read as follows:

(2) For purposes of this subsection, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, 2013, ~~and as amended by the American Taxpayer Relief Act of 2012,~~

1 ~~Pub. L. No. 112-240~~ 2014.

2 Sec. 6. EFFECTIVE UPON ENACTMENT. This division of this
3 Act, being deemed of immediate importance, takes effect upon
4 enactment.

5 Sec. 7. RETROACTIVE APPLICABILITY. This division of this
6 Act applies retroactively to January 1, 2013, for tax years
7 beginning on or after that date.

8 DIVISION II

9 REPEAL OF GENERATION SKIPPING TRANSFER TAX AND IOWA ESTATE TAX

10 Sec. 8. Section 12.71, subsection 8, Code 2014, is amended
11 to read as follows:

12 8. Bonds issued under the provisions of this section are
13 declared to be issued for a general public and governmental
14 purpose and all bonds issued under this section shall be exempt
15 from taxation by the state of Iowa and the interest on the
16 bonds shall be exempt from the state income tax and the state
17 inheritance ~~and estate~~ tax.

18 Sec. 9. Section 12.80, subsection 3, Code 2014, is amended
19 to read as follows:

20 3. Bonds issued under this section are declared to be issued
21 for an essential public and governmental purpose and all bonds
22 issued under this section shall be exempt from taxation by the
23 state of Iowa and the interest on the bonds shall be exempt
24 from the state income tax and the state inheritance ~~and estate~~
25 tax.

26 Sec. 10. Section 12.81, subsection 8, Code 2014, is amended
27 to read as follows:

28 8. Bonds issued under the provisions of this section are
29 declared to be issued for a general public and governmental
30 purpose and all bonds issued under this section shall be exempt
31 from taxation by the state of Iowa and the interest on the
32 bonds shall be exempt from the state income tax and the state
33 inheritance ~~and estate~~ tax.

34 Sec. 11. Section 12.87, subsection 8, Code 2014, is amended
35 to read as follows:

1 8. Any bonds issued and sold under the provisions of this
2 section are declared to be issued and sold for an essential
3 public and governmental purpose, and all bonds issued and sold
4 under this section except as otherwise provided in any trust
5 indentures, resolutions, or other instruments authorizing their
6 issuance shall be exempt from taxation by the state of Iowa and
7 the interest on the bonds shall be exempt from the state income
8 tax and the state inheritance ~~and estate~~ tax.

9 Sec. 12. Section 12.91, subsection 9, Code 2014, is amended
10 to read as follows:

11 9. Bonds issued under the provisions of this section are
12 declared to be issued for a general public and governmental
13 purpose and all bonds issued under this section shall be exempt
14 from taxation by the state of Iowa and the interest on the
15 bonds shall be exempt from the state income tax and the state
16 inheritance ~~and estate~~ tax.

17 Sec. 13. Section 16.177, subsection 8, Code 2014, is amended
18 to read as follows:

19 8. Bonds issued under this section are declared to be issued
20 for an essential public and governmental purpose and all bonds
21 issued under this section shall be exempt from taxation by the
22 state of Iowa and the interest on the bonds shall be exempt
23 from the state income tax and the state inheritance ~~and estate~~
24 tax.

25 Sec. 14. Section 321.47, subsection 2, Code 2014, is amended
26 to read as follows:

27 2. The persons entitled under the laws of descent and
28 distribution of an intestate's property to the possession
29 and ownership of a vehicle owned in whole or in part by a
30 decedent, upon filing an affidavit stating the name and date of
31 death of the decedent, the right to possession and ownership
32 of the persons filing the affidavit, and that there has been
33 no administration of the decedent's estate, which instrument
34 shall also contain an agreement to indemnify creditors of
35 the decedent who would be entitled to levy execution upon

1 the motor vehicle to the extent of the value of the motor
2 vehicle, are entitled upon fulfilling the other requirements of
3 this chapter, to the issuance of a registration card for the
4 interest of the decedent in the vehicle and a certificate of
5 title to it. If a decedent dies testate, and either the will is
6 not probated or is admitted to probate without administration,
7 the persons entitled to the possession and ownership of a
8 vehicle owned in whole or in part by the decedent may file
9 an affidavit and, upon fulfilling the other requirements of
10 this chapter, are entitled to the issuance of a registration
11 card for the interest of the decedent in the vehicle and a
12 certificate of title to the vehicle. The affidavit shall
13 contain the same information and indemnity agreement as is
14 required in cases of intestacy pursuant to this section. A
15 requirement of chapter 450 ~~or 451~~ shall not be considered
16 satisfied by the filing of the affidavit provided for in this
17 section. If, from the records in the office of the county
18 treasurer, there appear to be any liens on the vehicle, the
19 certificate of title shall contain a statement of the liens
20 unless the application is accompanied by proper evidence of
21 their satisfaction or extinction. Evidence of extinction
22 may consist of, but is not limited to, an affidavit of the
23 applicant stating that a security interest was foreclosed as
24 provided in chapter 554, article 9, part 6. The department
25 shall waive the certificate of title fee and surcharge required
26 under sections 321.20, 321.20A, 321.23, 321.46, 321.52, and
27 321.52A if the person entitled to possession and ownership of
28 a vehicle, as provided in this subsection, is the surviving
29 spouse of a decedent.

30 Sec. 15. Section 421.60, subsection 2, paragraph c,
31 subparagraph (1), Code 2014, is amended to read as follows:

32 (1) If the notice of assessment or denial of a claim for
33 refund relates to a tax return filed pursuant to section 422.14
34 or chapter 450, ~~450A, or 451~~, by the taxpayer which designates
35 an individual as an authorized representative of the taxpayer

1 with respect to that return, or if a power of attorney has been
2 filed with the department by the taxpayer which designates an
3 individual as an authorized representative of the taxpayer with
4 respect to any tax that is included in the notice of assessment
5 or denial of a claim for refund, a copy of the notice together
6 with any additional information required to be sent to the
7 taxpayer shall be sent to the authorized representative as
8 well.

9 Sec. 16. Section 450.7, subsection 2, unnumbered paragraph
10 1, Code 2014, is amended to read as follows:

11 Notice of the lien is not required to be recorded. The
12 rights of the state under the lien have priority over all
13 subsequent mortgages, purchases, or judgment creditors; and a
14 conveyance after the decedent's death of the property subject
15 to a lien does not discharge the property except as otherwise
16 provided in this chapter. However, if additional tax is
17 determined to be owing under this chapter ~~or chapter 451~~ after
18 the lien has been released under paragraph "a" or "b", the lien
19 does not have priority over subsequent mortgages, purchases,
20 or judgment creditors unless notice of the lien is recorded in
21 the office of the recorder of the county where the estate is
22 probated, or where the property is located if the estate has
23 not been administered. The department of revenue may release
24 the lien by filing in the office of the clerk of the court in
25 the county where the property is located, the decedent owner
26 died, or the estate is pending or was administered, one of the
27 following:

28 Sec. 17. Section 450.68, subsection 1, paragraph b, Code
29 2014, is amended to read as follows:

30 **b.** Federal tax returns, copies of returns, return
31 information as defined in section 6103(b) of the Internal
32 Revenue Code, and state inheritance tax returns, which are
33 required to be filed with the department for the enforcement
34 of the inheritance ~~and estate~~ tax laws of this state, shall be
35 deemed and held as confidential by the department. However,

1 such returns or return information may be disclosed by the
2 director to officers or employees of other state agencies,
3 subject to the same confidentiality restrictions imposed on the
4 officers and employees of the department.

5 Sec. 18. Section 455G.6, subsection 14, Code 2014, is
6 amended to read as follows:

7 14. Bonds issued under the provisions of this section are
8 declared to be issued for an essential public and governmental
9 purpose and all bonds issued under this subchapter shall be
10 exempt from taxation by the state of Iowa and the interest on
11 the bonds shall be exempt from the state income tax and the
12 state inheritance ~~and estate~~ tax.

13 Sec. 19. Section 463C.12, subsection 8, Code 2014, is
14 amended to read as follows:

15 8. Tax-exempt bonds issued by the authority in connection
16 with the program, which are exempt from taxation for federal
17 tax purposes, are also exempt from taxation by the state of
18 Iowa and the interest on these bonds is exempt from state
19 income taxes and state inheritance ~~and estate~~ taxes.

20 Sec. 20. Section 524.1406, subsection 3, paragraph a, Code
21 2014, is amended to read as follows:

22 a. Notwithstanding any contrary provision in chapter
23 490, division XIII, in determining the fair value of the
24 shareholder's shares of a bank organized under this chapter
25 or a bank holding company as defined in section 524.1801 in a
26 transaction or event in which the shareholder is entitled to
27 appraisal rights, due consideration shall be given to valuation
28 factors recognized for federal ~~and state~~ estate tax purposes,
29 including discounts for minority interests and discounts
30 for lack of marketability. However, any payment made to
31 shareholders under section 490.1324 shall be in an amount not
32 less than the stockholders' equity in the bank disclosed in its
33 last statement of condition filed under section 524.220 or the
34 total equity capital of the bank holding company disclosed in
35 the most recent report filed by the bank holding company with

1 the board of governors of the federal reserve system, divided
2 by the number of shares outstanding.

3 Sec. 21. Section 633.3, subsections 4 and 8, Code 2014, are
4 amended to read as follows:

5 4. *Charges* — includes costs of administration, funeral
6 expenses, cost of monument, and federal ~~and state~~ estate taxes.

7 8. *Costs of administration* — includes court costs,
8 fiduciary's fees, attorney fees, all appraisers' fees, premiums
9 on corporate surety bonds, statutory allowance for support
10 of surviving spouse and children, cost of continuation of
11 abstracts of title, recording fees, transfer fees, transfer
12 taxes, agents' fees allowed by order of court, interest
13 expense, including but not limited to interest payable on
14 extension of federal ~~and state~~ estate tax, and all other fees
15 and expenses allowed by order of court in connection with
16 the administration of the estate. Court costs shall include
17 expenses of selling property.

18 Sec. 22. Section 633.436, subsection 1, unnumbered
19 paragraph 1, Code 2014, is amended to read as follows:

20 Except as provided in sections 633.211 and 633.212, shares
21 of the distributees shall abate, for the payment of debts and
22 charges, federal ~~and state~~ estate taxes, legacies, the shares
23 of children born or adopted after the making of a will, or the
24 share of the surviving spouse who elects to take against the
25 will, without any preference or priority as between real and
26 personal property, in the following order:

27 Sec. 23. Section 633.449, Code 2014, is amended to read as
28 follows:

29 **633.449 Payment of federal estate taxes.**

30 All federal estate taxes, distinguished from state
31 inheritance ~~and estate~~ taxes, owing by the estate of a decedent
32 shall be paid from the property of the estate, unless the will
33 of the decedent, or other trust instrument, provides expressly
34 to the contrary.

35 Sec. 24. Section 633A.4703, unnumbered paragraph 1, Code

1 2014, is amended to read as follows:

2 Except as otherwise provided by the governing instrument,
3 where necessary to abate shares of the beneficiaries of a trust
4 for the payment of debts and charges, federal ~~and state~~ estate
5 taxes, bequests, the share of the surviving spouse who takes
6 an elective share, and the shares of children born or adopted
7 after the execution of the trust, abatement shall occur in the
8 following order:

9 Sec. 25. REPEAL. Chapters 450A and 451, Code 2014, are
10 repealed.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill updates the Iowa Code references to the Internal
15 Revenue Code to make federal income tax revisions enacted by
16 Congress in 2013 applicable for Iowa income tax purposes, and
17 repeals the generation skipping transfer tax and the Iowa
18 estate tax.

19 DIVISION I — INTERNAL REVENUE CODE REFERENCES. The
20 division amends Code sections 422.3 and 422.32, general
21 definition sections in the chapter of the Code that governs
22 corporate and individual income tax and the franchise tax
23 on financial institutions, to update the references to the
24 Internal Revenue Code.

25 The division amends Code sections 15.335, 422.10, and 422.33
26 to update the references to the Internal Revenue Code for the
27 state research activities credit for individuals, corporations,
28 and corporations in economic development areas to include the
29 federal changes to the research activities credit and the
30 alternative simplified research activities credit.

31 Division I takes effect upon enactment and applies
32 retroactively to January 1, 2013, for tax years beginning on
33 or after that date.

34 DIVISION II — REPEAL OF GENERATION SKIPPING TRANSFER TAX
35 AND IOWA ESTATE TAX. The division repeals the generation

1 skipping transfer tax and Iowa estate tax. Iowa once had an
2 estate tax equal to the federal estate tax credit for state
3 inheritance and estate taxes paid. This type of tax was
4 referred to as a "pick-up tax" because it levied an amount
5 of tax equal to the credit against federal estate taxes,
6 thereby allowing the state to collect estate tax revenue
7 without increasing the total amount of tax due from the estate.
8 Similarly, Iowa has a generation skipping transfer tax based on
9 the same concept and equal to the federal generation skipping
10 transfer tax credit for state generation skipping transfer tax
11 paid.

12 In 2001, Congress enacted the Economic Growth and Tax Relief
13 Reconciliation Act which temporarily phased out these two
14 federal tax credits and replaced them with reduced federal
15 estate tax rates and an increased exemption level for estates.
16 These federal tax credits were fully phased out in 2005.
17 Therefore, Iowa has not collected any estate tax or generation
18 skipping transfer tax for estates of decedents dying, nor for
19 generation skipping transfers occurring, after December 31,
20 2004.

21 Iowa's estate tax was repealed in 2008 and then reenacted
22 in 2010, but its implementation was contingent on the
23 reimplementing of the federal tax credits. However, in
24 2013 Congress enacted the American Taxpayer Relief Act which
25 permanently eliminated the federal estate tax and generation
26 skipping transfer tax credits.

27 The division also makes conforming changes to remove
28 references in the Iowa Code to the Iowa estate tax and to Code
29 chapters 450A and 451.